

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CLEMENT WILLIAMS,

Plaintiff,

v.

HOME STAR MORTGAGE SERVICES,
LLC, EVERHOME MORTGAGE
COMPANY,

Defendants.

Civil Action No.
1:10-cv-03738-TWT-LTW

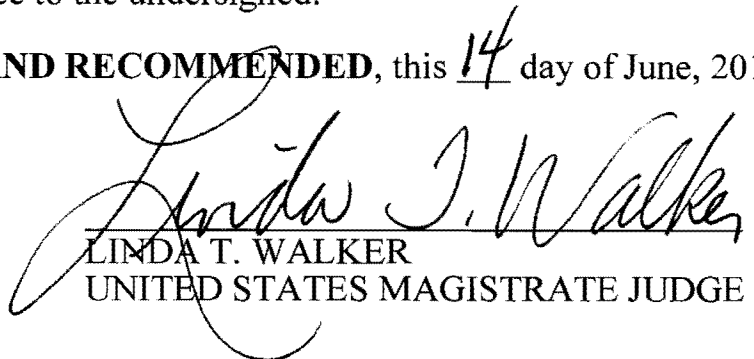
MAGISTRATE JUDGE’S FINAL REPORT AND RECOMMENDATION

Currently before the Court are Defendant EverHome Mortgage Company’s (“Defendant”) Motion to Dismiss Plaintiff’s Complaint and this Court’s Show Cause Order. Docket Entries [4, 7]. Plaintiff filed the instant lawsuit on November 15, 2010. Docket Entry [1]. On May 20, 2011, this Court, concerned that Plaintiff was not interested in prosecuting his case, entered an Order requiring Plaintiff to show cause why his case should not be dismissed within fourteen (14) days of the date of the Order.¹ Docket Entry [7]. Plaintiff was warned that, given his failure to respond to the Defendant’s Motion to Dismiss and his failure to participate in this lawsuit since its inception, this Court would interpret his failure to respond to the Show Cause Order as his indication that he is not interested in prosecuting his case and would recommend its

¹ In the May 20, 2011, Show Cause Order, this Court referred to Plaintiff as a male. It is unclear from the Complaint whether Plaintiff is male or female as Plaintiff uses both “her” and “he” in the Complaint. To be consistent, this Court refers to Plaintiff herein as a male.

dismissal. Nevertheless, to date, Plaintiff ignored the Show Cause Order, failed to file a response in opposition to Defendant's motion, and still has not undertaken any substantial proceedings of record since he filed his lawsuit on November 15, 2010. Local Rule 41.3(A)(3) provides that the Court may, with or without notice to the parties, dismiss a civil case for want of prosecution if a case has been pending in this Court for more than six (6) months without any substantial proceedings of record having been taken in the case. LR 41.3A(3), NDGa. Additionally, Local Rule 41.3(A)(2) provides that the Court may dismiss a case for want of prosecution if a plaintiff refuses to obey a lawful Order of the Court. LR 41.3A(2), NDGa. Because this case has been pending in this Court for more than six (6) months without any substantial proceedings of record by Plaintiff and Plaintiff has refused to obey a lawful Order of the Court, this Court **RECOMMENDS** that Plaintiff's case be dismissed for want of prosecution. Because this Court has already recommended dismissal of this case, Defendant's Motion to Dismiss should be **DEEMED MOOT**. Docket Entry [4]. As this is a final Report and Recommendation and there are no other matters pending before this Court, the Clerk is directed to terminate the reference to the undersigned.

IT IS SO REPORTED AND RECOMMENDED, this 14 day of June, 2011.


LINDA T. WALKER
UNITED STATES MAGISTRATE JUDGE

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ORDER FOR SERVICE OF REPORT AND RECOMMENDATION

Attached is the report and recommendation of the United States Magistrate Judge made in this action in accordance with 28 U.S.C. § 636 and this Court's Local Rule 72.1C. Let the same be filed and a copy, together with a copy of this Order, be served upon counsel for the parties.

Pursuant to 28 U.S.C. § 636(b)(1), each party may file written objections, if any, to the report and recommendation **within fourteen (14) days of the receipt of this Order**. Should objections be filed, they shall specify with particularity the alleged error or errors made (including reference by page number to the transcript if applicable) and shall be served upon the opposing party. The party filing objections will be responsible for obtaining and filing the transcript of any evidentiary hearing for review by the district court. If no objections are filed, the report and recommendation may be adopted as the opinion and order of the district court and any appellate review of factual findings will be limited to a plain error review. United States v. Slay, 714 F.2d 1093 (11th Cir.

1983), cert. denied, 464 U.S. 1050 (1984).

The Clerk is directed to submit the report and recommendation with objections, if any, to the district court after expiration of the above time period.

SO ORDERED, this 4 day of June, 2011.


LINDA T. WALKER
UNITED STATES MAGISTRATE JUDGE